



United Nations Conference on Trade and Development

Distr.
LIMITED

TD/B/SCP/L.1/Add.1
13 May 1993

Original: ENGLISH

TRADE AND DEVELOPMENT BOARD
Special Committee on Preferences
Twentieth session
Geneva, 10 May 1993
Agenda item 8

DRAFT REPORT OF THE SPECIAL COMMITTEE ON PREFERENCES ON ITS TWENTIETH SESSION

Held at the Palais des Nations, Geneva
from 10 to .. May 1993

Addendum

Rapporteur: Mr. E. Manakine (Russian Federation)

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Chapter I

REVIEW OF THE IMPLEMENTATION, MAINTENANCE, IMPROVEMENT AND
UTILIZATION OF THE GENERALIZED SYSTEM OF PREFERENCES
(Agenda item 3)

CONSULTATIONS ON HARMONIZATION AND IMPROVEMENT
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TECHNICAL ASSISTANCE IN CONNECTION WITH
THE GENERALIZED SYSTEM OF PREFERENCES
(Agenda item 5)

(continued)

1. The representative of Indonesia said that the developing countries had indeed benefited from the preferential tariffs introduced under the GSP, but in view of the mutuality of benefits from the system, she urged preference-giving countries to renew and/or improve their schemes with a view to substantially enhancing preferential access for the products of developing countries, imparting to such access a measure of stability and predictability, and discontinuing the practice of product-specific graduation.
2. Graduation which led to restrictions on qualifying imports or to discretionary exclusion from preferential treatment was against the non-discriminatory principle of the GSP. Graduation had originally been intended to provide a better spread of benefits and to create new trading opportunities through wider product coverage. Instead it had resulted in a detrimental utilization of the schemes. Further recourse to graduation should be based on multilaterally agreed criteria which should be objective, non-discriminatory and non-reciprocal in nature. Likewise it should be strictly based on trade and economic considerations, to the exclusion of non-trade issues. Reference to per capita income and development level, although valid, was insufficient to graduate a country. Consultations with the countries affected should take place before a notice of graduation was sent, and countries affected should be given sufficient leeway to adjust their economies to the new situation.
3. In its resolution 11 (XVII), the Special Committee had recommended that preference-giving countries should consider granting deeper tariff cuts aimed,

where possible, at duty-free treatment. This recommendation had acquired greater significance in view of the MFN tariff reductions expected as a result of the Uruguay Round. She urged the preference-giving countries concerned to follow the example of the Japanese and the Nordic schemes in granting across-the-board duty-free treatment. One way to mitigate the effects of the erosion of GSP margins of preference was through further harmonization and improvement of the rules of origin. She also underlined the potential contribution which the donor country content rule could make in stimulating economic cooperation and two-way trade between developed and developing countries. The granting of regional and subregional cumulation facilities under the GSP was also an important means for furthering economic cooperation among developing countries.

4. She expressed appreciation for contributions made to the technical assistance programme by UNDP and other bilateral resources. However, she noted with concern the decline in the funding of such activities. It was clear from the secretariat report that the demand for technical assistance on the GSP was still high, and she appealed to all countries, UNDP and other potential donors to provide further assistance either in the form of trust funds or in-kind contributions to meet the demands from developing countries for technical assistance.

5. She noted with appreciation that the Japanese scheme had been extended until 2001 and that the scheme of EC would be extended until the end of 1993. Similar intentions had also been expressed by some other preference-giving countries, which demonstrated a measure of good will towards developing countries.

6. The representative of Switzerland said that Cambodia, Madagascar, the Solomon Islands, Zambia and Zaire had been included in the list of least developed countries for his country's scheme. Following the conclusion of a Free Trade Area Agreement between Turkey and EFTA countries, Turkey had been deleted from the list of Swiss GSP beneficiaries.

7. He recalled that the Swiss scheme did not include any quantitative restrictions and that no product had ever been withdrawn from the list since the introduction of the scheme. In 1992, total imports from preference-receiving developing countries had amounted to about US\$ 4.7 billion, or 10 per cent less than the previous year. Eligible GSP imports from developing countries had amounted to US\$ 3.4 billion, i.e.

68 per cent of all imports. The utilization rate for all beneficiaries had increased from 40 per cent in 1991 to 43 per cent in 1992. However, if precious stones and metals were not taken into account due to their very low tariffs and in view of the fact that preferences were seldom asked for these products, the utilization rate would have been 63 per cent.

8. He expressed satisfaction with technical cooperation activities on GSP. His country had supported such activities for the last 10 years and had contributed US\$ 250,000 for that purpose for the years 1992 and 1993, inter alia to finance a regional seminar in Latin America and a regional seminar for French-speaking African countries.

9. The representative of the United States said that his country continued to add both countries and products to its scheme. Ethiopia and each of the former republics of the Socialist Federal Republic of Yugoslavia (other than Serbia and Montenegro) had been added. In addition, the eligibility of Albania and the Russian Federation was currently being reviewed. Almost 100 products had been added to the list of articles eligible for GSP benefits as a result of the 1991 GSP annual review and the special GSP review for Central and Eastern Europe. While relatively few petitions to add products to the list of eligible articles were being reviewed in the 1992 GSP annual review, duty-free imports of GSP-eligible items had continued to increase. In 1992, these imports had represented a 22 per cent growth over 1991, rising from \$13 billion to \$16.7 billion. This growth could be compared to a 2 per cent rise in total United States imports from all countries over the same period. In addition, approximately 22 per cent of all imports from GSP beneficiary countries had also entered the United States MFN duty-free. In the area of technical assistance, his country was currently conducting GSP seminars in several African countries, and copies of a guidebook on the scheme were available upon request.

10. In the coming year, his Government would be primarily engaged in the renewal of the scheme. By law, the scheme expired on 4 July 1993, and renewing it would require legislative action by Congress. The United States Administration had formally requested that Congress pass legislation to extend the GSP for 15 months beyond its current expiration date. In addition, the legislation would delete the provision which prevented extension of the GSP to the countries which had formerly constituted the Soviet Union. The Administration's proposal was currently being considered by Congress. During

this 15-month period, the Administration and Congress planned to work together on a long-term extension of the scheme, examining it in depth and determining how it could be improved.

11. With regard to the renewal of the scheme, the process was an open one, in which all interested parties, foreign and domestic, were invited to participate. In 1992, his Government had published an announcement in the Federal Register soliciting public comments on renewal from any interested party, and that had been followed by public hearings on GSP renewal in Washington. Several beneficiary countries had submitted comments and/or participated in the hearings, and the comments and suggestions which they had provided would be given thoughtful consideration by the Administration.

12. Literally every aspect of the scheme was under consideration and review, and the scheme that eventually emerged could look considerably different. The scheme had evolved over time in order to integrate more closely with the country's trade policy, and it was not unreasonable to expect this to continue.

13. The United States remained committed to the overall aims of the GSP - economic growth and development through expanded trade with developing countries. Accordingly, his country utilized its scheme to promote trade with those nations which were less competitive in world markets, thus facilitating their economic development. There had been rapid growth in the levels of development of those beneficiaries most able to utilize the scheme. This same phenomenon was being witnessed with respect to the economies in transition which, by any standard, were at such a level of development as to deserve preferential treatment.

14. In conclusion, he stressed that the GSP had not been intended as a permanent bilateral assistance programme, or a substitute for the reduction of trade barriers through multilateral trade negotiations. The principle of graduation, which was as old as the GSP itself, was a necessary corollary to the granting of trade preferences.

15. The representative of the Russian Federation said that the GSP was an important instrument of multilateral cooperation in the field of trade and development, and her country endorsed the general, non-discriminatory and independent nature of the system.

16. By presidential decree of 15 March 1993, a new customs tariff had entered into force in the Russian Federation. Duty on goods originating in developing

countries other than LDCs was set at 50 per cent of the base MFN rates, while goods from LDCs were imported duty-free. A provisional list of countries receiving preferences under the temporary scheme of the Russian Federation had been established.

17. The Customs Tariff Law, as adopted by the Supreme Soviet of the Russian Federation, legally strengthened the status of the Russian Federation as a preference-giving country. The Law gave the Government of the Russian Federation the right to establish and review a national scheme of preferences for goods from developing countries. The law would enter into force upon the issuance of the related Presidential decree.

18. The Russian Federation was also a preference-receiving country, and it thanked Canada, Austria and the EC for including it in their schemes. It hoped that this would help solve the problem of gaining access for its exports to developed country markets. It regarded preferences as an additional source of external support for its economic reforms.

19. The representative of India said that the GSP was now a time-tested instrument for trade creation for the mutual benefit of both preference-giving and preference-receiving countries. It had played a positive role, even if in a limited way, in achieving the objective of increasing export earnings of developing countries, stimulating their industrialization, accelerating rates of growth, diversifying production and exports and providing a fillip to their economic development in general. The system was anchored in the principles of non-reciprocity and non-discrimination, which had to be maintained. It was necessary, therefore, for the GSP to be extended on a long-term basis so as to ensure the stability and predictability of its advantages. He commended the developed countries that had already announced the extension of their schemes, and he urged others to do the same, in line with paragraph 134 of the Cartagena Commitment.

20. Secretariat document TD/B/SCP/3 showed that the actual amount of developing country exports which benefited from the GSP was not very large, and there was ample scope for wider coverage and simplification that would allow utilization of the schemes. Sustained efforts were required to introduce products of current and potential export interest to developing countries, including agricultural products.

21. The use of the GSP for extraneous purposes served only to detract from its usefulness. India's GSP-covered exports were increasingly being affected

by so-called product country exclusions, competitive need criteria provisions, global ceilings and maximum country amounts and other a priori limitations and restrictions in some major schemes. These could be seen as sources of instability, uncertainty and complexity in GSP schemes. Product-specific graduation went against the objectives of the GSP, namely to promote industrialization and exports of developing countries, by denying preferential benefits to the very countries that were in a position to make use of these benefits. As regards competitiveness, there had to be some multilaterally agreed criteria to show the proven, sustained and absolute competitiveness of a beneficiary before preferential treatment was withdrawn.

22. There was considerable variation in the conception and execution of the various schemes. The system as a whole would benefit from harmonization of rules of origin, greater transparency and simplicity in its implementation. This would help to ensure equivalence in conditions of access to the markets of the preference-giving countries. Liberalization of the rules of origin through the inclusion of full and global cumulation, complemented by measures to include contents originating in the preference-giving country, would not only greatly improve utilization of the system by beneficiary developing countries but would also spur export-oriented investment in these countries and stimulate South-South trade and economic cooperation. On the question of safeguards, preference-giving countries should limit action to escape-clause-type measures only and respect the principles of exceptionality, temporariness and prior consultation with potentially affected beneficiaries.

23. The representative of the European Community said that the contacts established at the Special Committee's session could be built on throughout the year with a view to improving beneficiaries' knowledge of schemes and hence enabling them to make more efficient use of them. The Community continued to support the UNCTAD secretariat's efforts in this field, either through direct participation or by organizing its own seminars and workshops.

24. The Community was fully aware of the beneficiary countries' wish to promote the harmonization and improvement of the rules of origin. It also remained of the opinion that donor country content, together with regional cumulation, could increase the efficiency of the system of preferences, bearing in mind the need for special measures in favour of the least developed countries.

25. In 1993 the Community scheme had been extended without change, at least as far as its structure was concerned. This did not imply that progress had not been achieved. This was borne out by the particularly encouraging figures reported in the utilization of the scheme. The latest available statistics, which were for 1991, showed a substantial increase in preferential imports into the Community in all sectors, particularly industry. This demonstrated that, despite the natural erosion of preferential margins, the scheme continued to play its traditional role in promoting the industrialization of beneficiary countries, the GSP's foremost objective from the outset. This positive trend was particularly significant among Latin American countries, which for too long had suffered from an export trade structure primarily focused on agriculture, to the detriment of industrial exports.

26. The scheme had not stood still in terms of content either. First of all, its geographical scope had been extended, with the Community deciding to extend its preferences to all the former Soviet Republics for 1993 on an exceptional and temporary basis. The Community felt that these new countries, after the political upheavals they had been through, were faced with a political, economic and social crisis of such major proportions that they had to be supported using all available means. The purpose of this support was to help smooth the difficult transition to an open market economy based on democratic institutions, and the only way of providing such support was to improve access to the Community market for the new Republics' exports, thus providing a fillip to the restructuring, redeployment and revitalization of their industrial and agricultural sectors, speeding up their economic development and boosting their growth rate. However, GSP preferences had not been extended to these countries' textiles, fisheries and iron and steel products.

27. He also drew the Committee's attention to a technical change in the Community's scheme which was of fundamental significance to exporting countries. This concerned conversion of the textile quotas distributed among the member States into amounts fixed at the Community level. This was a logical consequence of the entry into force of the single market on 1 January 1993 and had also, above all, made life considerably easier for exporters, who were thus sure to benefit from the elimination of the Community's internal frontiers and the administrative transparency that this development entailed.

28. Romania and Bulgaria would cease to be beneficiaries of the scheme as from 1 May 1993 and 1 June 1993 respectively when their exports would come under the arrangements laid down in the Interim Agreements regarding trade between them and the Community. The Community had also decided this year to extend the MFA textiles section of its scheme to Albania, the Baltic States and Viet Nam, and to add Cambodia, Liberia, Madagascar, the Solomon Islands, Vanuatu, Zaire and Zambia to the list of those countries benefiting from the conditions applied to the least developed nations.

29. The Community had not as yet reached any decision as to the content of its scheme for 1994. However, its preparatory work for this purpose continued to be guided by the principles already expounded in the Committee the previous year.

30. Since the Committee's previous session, all UNCTAD's subsidiary bodies had met in order to establish their work programmes. Some of these programmes contained references to preferential treatment, and the subsidiary bodies concerned should take into due account the results achieved in the Special Committee and keep the latter informed of any discussions they might have on this matter.

31. The representative of China welcomed the fact that, since the last session of the Committee, some preference-giving countries had increased the number of beneficiaries of their schemes and enlarged their product coverage and preferential limits. However, the GSP as a whole had suffered a gradual weakening caused by both external factors such as regionalization of the world economy and the various practices of preference-giving countries. These practices included unilateral discriminatory measures, non-tariff measures against products covered under the GSP, especially anti-dumping measures, and demand for reciprocal preferences from preference-receiving countries. All these measures ran counter to the basic principles of the GSP and had very harmful effects on the utilization of the GSP by the developing countries.

32. Another worrisome practice was the removal of preferences through product or country graduation. Often, in taking such actions, preference-giving countries tended to be arbitrary, and some of them linked preferences with such non-trade issues as rights of workers, intellectual property and the environment. This was also in serious violation of the principle of non-reciprocity of the GSP, and, moreover, harmed the industrialization, export-trade, investment and cooperation projects of the developing countries.

33. As a preference-receiving country, China had obtained some good results in utilizing the GSP. However, owing to the limitations imposed on China by the various protective measures of the preference-giving countries, the rate of GSP utilization had never been high, and China therefore hoped that the preference-giving countries would improve their GSP schemes. The secretariat report had shown that there was wide scope for improvement on the basis of measures such as: (i) reaffirmation of the generalized, non-discriminatory and non-reciprocal nature of the GSP and renewed endeavour to achieve its objectives; (ii) harmonization, simplification and liberalization of the rules of origin by the preference-giving countries; (iii) measures by the preference-giving countries to expand product coverage, increase the range of tariff preferences and the maximum country amounts according to the export supply capabilities of the preference-receiving countries, and as much as possible reduce and eliminate non-tariff measures on GSP-covered products; (iv) reduction as much as possible of the practice of arbitrarily removing products or countries from GSP treatment. Any such removal should be done on the basis of multilaterally agreed criteria. The affected country should be consulted beforehand, in order to allow its exporters sufficient time for adjustment. In addition, the removal should be implemented in a stage-by-stage fashion, so as to minimize any negative effects this removal might have on the industries of the preference-receiving country; and (v) strengthening of the technical assistance projects on GSP. All parties should endeavour to finance such projects.

34. Finally, he expressed appreciation to UNCTAD and the Austrian Government for the technical assistance they had provided to China by organizing a training seminar in Austria on international trade policies.

35. With regard to agenda item 4, preference-giving countries had made positive efforts with a view to the simplification, harmonization and liberalization of the rules of origin. None the less, some rules had impeded the full utilization of the GSP. This mainly concerned the rigid restrictions in the rules of some preference-giving countries, their wide divergences and their complexity. A number of measures could be taken to improve the situation. Firstly, "global cumulation" and "donor country content" should be granted at an early date. Since in today's world, manufacturing industries were specialized and regionalized, it was common for a finished product to contain some non-originating materials and parts. The inclusion of "global

cumulation" and "donor country content" in the GSP rules of origin would play a positive role in increasing the exports of the preference-receiving countries, in promoting economic and trade cooperation among the developing countries as well as between the developing countries and the developed countries, and in the realization of the three major objectives of the GSP.

36. Secondly, all preference-giving countries should adopt the "processing criterion" and rely on "HS tariff heading change" as a major means of judgement of this criterion. The "percentage criterion" used by some preference-giving countries was rather complex. In order to comply with this criterion, manufacturers had to make many calculations, and the certifying authorities had to check and verify, for each finished product, the prices of its various materials and spare parts and components, while these prices kept changing constantly, thus adding to the difficulty. Everything considered, the "processing criterion" was easier to grasp and operate.

37. Thirdly, preference-giving countries using the "processing criterion" should do their utmost to simplify, harmonize and liberalize the requirements in process lists. Some countries using the "processing criterion" had additional percentage requirements, which also differed widely. For example, the process lists of some preference-giving countries contained eight different percentage requirements. This caused great difficulties to manufacturers and exporters in their understanding of and compliance with the rules of origin. It had also caused great difficulty for the certifying authorities in their supervision of the finished or semi-finished products under certificate of origin Form A. Moreover, certain requirements in the processing lists were too rigid and were seriously affecting GSP entitlement for products exported by China.
